IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 21ST NOVEMBER 2007 / 30TH KARTHIKA 1929

Bail Appl..No. 6985 of 2007()

CRIME NO KNOWN - KEEZVAIPUR POLICE STATION

PETITIONERS/ACCUSED

M.R.SUDARSANA KUMAR, S/O.RAMA PANIKER,
KALARIKAL HOUSE, NEEZHOOR VILLAGE,
VAIKOM.

BY ADV. SRI.DILIP MOHAN

RESPONDENTS: COMPLAINANT/STATE

---

1. STATE OF KERALA
REP. BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM.

2. STATION HOUSE OFFICER,
KEEZHVAIPUR POLICE STATION,
PATHANAMTHITTA DISTRICT.

BY PUBLIC PROSECUTOR SRI. GIKKU JACOB

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 21/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

- -

B.A.No. 6985 of 2007

- -

Dated this the 21st day of November, 2007

O R D E R

Application for anticipatory bail. The petitioner is an employee of the postal department. He faces allegations under Section 409 I.P.C. The crux of the allegations is that during the period 12.2.2005 to 11.5.2005 the petitioner received amounts from Mahilapradan agents, but did not bring the same into the account of the post office. Crime has been registered. Investigation is in progress. The petitioner apprehends imminent arrest.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. The learned counsel points out that as a matter of fact the amount involved in the alleged misappropriation has already been deposited by the petitioner before the postal authorities even before the F.I.R. was filed. In these circumstances the petitioner may be granted anticipatory bail, submits the learned counsel.

3. The learned Prosecutor opposes the application. He submits that the petitioner may be directed to surrender before the learned Magistrate and seek regular bail in the ordinary course.

4. Having considered all the relevant inputs, I am certainly of the opinion that it is for the petitioner to surrender before the learned Magistrate and seek regular bail in the ordinary course. I must alertly remind myself of the fact that I am called upon to invoke the extra ordinary equitable discretion under Section 438 Cr.P.C. Consideration at this stage will be totally different from the consideration when an application for regular bail is taken up. In the peculiar facts and circumstances of this case, eventhough the investigation is pending, I direct that the application to be filed by the petitioner on his surrender must be considered by the learned Magistrate on merits, in accordance with law and expeditiously - on the date of surrender itself. Needless to say, the petitioner shall be at liberty to urge before the learned Magistrate the fact that he has already deposited the entire amount before the authorities.

5. With the above observations, this application is dismissed.

(R. BASANT)
Judge

tm